IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO.6216 OF 2005

The State of Maharashtra ...Petitioner
Vs.
Anwar Ayubshaha Rajguru ...Respondent

Ms.P.H.Kantharia, A.P.P. for Petitioner

CORAM: B.H.MARLAPALLE & ROSHAN DALVI, JJ.
DATED: 18TH JANUARY, 2006

P.C.

1. Heard Ms. Kantharia, the learned A.P.P The Respondent was tried in Sessions case No.37 of 2004 by the learned Additional Sessions Judge at Sindhudurg for the offences punishable under Sections 224, 506, 307 and 332 of Indian Penal Code and by the Judgment and order dated 29th April 2005, the learned Additional Sessions Judge was pleased to acquit the Respondent/accused. Hence, this Application for appeal under Section 378(3) of Cr.P.C.

2. Crime No.49 of 2004 came to be registered with the Banda Police Station on the complaint given by Ayrin Fernandes on 6th September 2004 regarding the theft of ornaments worth Rs.86,000/- from her house and she had stated that the accused was on visiting terms to her house. On 8th September 2004 the Police had received information that the accused was hiding

himself near her house at Kharavatkar Temb, Charatha Sawantwadi, and therefore, Police Inspector Jadhav along with Police Constable Shelke (P.W.2), Head Police Constable Dalvi (P.W.6), Police Constable Rajendra Rane (P.W.7) and 4 other Constables were engaged in the search of accused and there was scuffle between the accused and the Police party of 8 to 9 police persons. P.W.7 Rane was injured and therefore, the accused was put on trial.

3. The learned Sessions Judge considered the evidence of P.W.1 Medical Officer and the other 9 police persons and recorded finally that the prosecution case was inherently improbable and the evidence placed on record does not inspire confidence so as to hold the accused guilty of any of the offences with which he was charged for. So far as the injury caused to P.W.7 Rajendra Rane is concerned, the Medical Officer clearly stated that it was a simple injury on the cheek. The reasoning given by the learned Additional Sessions Judge in support of the acquittal order on considering the oral and documentary evidence placed on record does not make out a case for granting leave to appeal under Section 378(3) of Cr.P.C. Hence the application is rejected.

(ROSHAN DALVI,J.) (B.H.MARLAPALLE, J.)